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WESTERN WATER
C O M P A N Y

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Judy A. Kelly
Regional Vice President

September 22, 1999

Mr. Lester A. Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Dear Mr. Snow:

We at Western Water Company strongly endorse the emergence of water transfers as a critical tool for a long-term Bay-Delta solution. Water transfers have taken an increasingly important position in the CALFED Program ("Program") as it has evolved since 1995. Despite this progress, the current CALFED Water Transfer Plan ("Plan") is still only a starting point for resolving the issues that prevent water transfers from contributing to solving not only the Bay-Delta problems, but also many of the water supply issues statewide. The Program needs to further expand to encompass a water market, as well as discrete water transfers.

The importance of water transfers, as well as a water market, is underscored by the direct dependencies between the water transfer program and other CALFED elements including the Water Management Program, the Environmental Water Account ("EWA"), Storage, Conveyance and Conjunctive Use, Ecosystem Restoration, and Conservation and Recycling. In addition, a decision on additional facilities, which has been delayed, is critically dependent on the interim evaluation of the effectiveness of a water transfer program.

A functioning water market is particularly important in light of the emphasis placed on the EWA. As stated in the report, "The importance of a successful EWA program to the overall CALFED water management strategy cannot be overemphasized. ... Especially in its first few years of operation, a substantial portion of the water needed for an EWA will need to be acquired through voluntary purchases on the water transfer market." (CALFED Revised Phase II Report, page 95) The document makes clear that without a viable water market, CALFED's Water Management Strategy, the EWA, and the CALFED effort itself will be impossible to implement.

Given the critical importance of a water market to the success of the program, Western Water Company is dismayed by the lack of clarity and urgency in the current Water Transfer Program Plan. The Company has the following specific suggestions for CALFED to get back "on track" with the Water Transfer Program:

1. Move fast in defining interim rules for transfer and in seeking clarity of issues facing transfers;
2. Open up the process as promised to stakeholders involved with actual transfers; and
3. Stay ahead of the curve by assuming a leadership role.

SPECIFIC COMMENTS

1. Move fast in defining interim rules for transfer and in seeking clarity of issues facing transfers

The CALFED promise of innovative thinking and an aggressive transfer implementation effort is not adequately reflected in the current Plan. While the December 1998 iteration of the Transfer Program called for development of the Interim Transfer Rules and a Strategic Plan for the Transfer Program, we have seen no progress on either effort in the intervening ten months of CALFED work. This is disappointing. Public policy as defined by the Federal government, in the passage of the Central Valley Project Improvement Act, and by the State legislature, in a number of state statutes, calls for the facilitation of water transfers. But little has been accomplished by the State or Federal institutions directed to facilitate transfers.

In some cases, agencies participating in CALFED have actually raised barriers to facilitating such transfers. The CALFED effort had been seen as a way to break through the inertia on developing a true water market and should capitalize on this opportunity.

From the perspective of Western Water Company and based on our experience in actually implementing transfers, CALFED can make a significant contribution toward improving the transfer market in California by establishing interim operating rules for Stage 1 of Program implementation.

The highest priority issues that are ripe for CALFED's development of interim rules include:

1. Adding clarity on what constitutes the right to transfer water;
2. Defining the opportunities to move transferable water;
3. Providing a streamlined process for review and approval of transfers - including how to assess and address third party impacts;
4. Emphasizing the need for voluntary North-South and agriculture to urban transfers;
5. Eliminating burdensome procedures while preserving appropriate protections;
6. Defining and insisting on fair and economic access to public conveyance facilities; and
7. Helping to differentiate between DWR and USBR roles as regulators and as junior appropriators.

Early development and implementation of Interim Transfer Rules will help to clarify the issues that have, up to now, only been discussed in the abstract of a non-existent market. Such rules should allow for the adaptive management of a water market. As with each of the other areas of the CALFED Program, it is well

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understood that the program direction and answers to issues will need continual review and modification. Interim rules will allow the appropriate testing, troubleshooting and refinement of this emerging market. With a functioning market structure in place, California will be in a better position, having developed these additional tools, to respond to the next drought. With a viable market, CALFED will be able to evaluate both the promise and problems associated with market-influenced allocation of this resource. Without a market, the heated discussions about new facilities will remain contentions theoretical arguments. Worse, costly new facilities could be built that transfers would have shown to be either unneeded or premature. In either case, without a viable market, CALFED will have missed an important opportunity to alleviate the mismatch between California's supply and demand for water.

2. Open up the process as promised to stakeholders involved with actual transfers

Since the publication of the last set of Documents in December 1998, work on the CALFED transfer program has been invisible to the broader stakeholder community. What has happened since December? Who, if anyone, is participating? It is our perception that the process has bogged down in the past several months. Certainly, the December promise of a Transfer Strategy was never realized and any on-going efforts to resolve transfer issues appear to be taking place within the agencies, behind closed doors.

The process must be opened up to the stakeholders. As stakeholder and agency officials work together on this Program, the agencies should be encouraged to cooperate with each other and, with stakeholders, to form water transfer rules and procedures that work, act to streamline the transfer process — not create economic and procedural barriers. Agencies, such as the Department of Water Resources, the State Water Resources Control Board, and the U.S. Department of the Interior Bureau of Reclamation should speak and act in coordination with, and in support of, CALFED.

3. Stay ahead of the curve

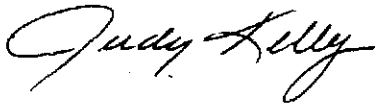
Much is happening across California and the West regarding transfers. Fundamental issues about transfers are now being decided in a myriad of venues, from the issue of economic wheeling in the Metropolitan Water District of Southern California's validation suit (now under appeal) and Senate Bill 506, to the deliberations of the State Water Resources Control Board as it grapples with the definition of transferable conserved water. So far, CALFED has played an observer role in the deliberation of these issues rather than a leadership role. This inaction leaves the discussions largely in the hands of the very institutions CALFED was designed to help be more creative. CALFED decision-makers must seize the lead on developing the water market and help forge a new and creative future for California.

SUMMARY

CALFED must redouble its efforts on the Transfer Program and not get caught up in old fears that have long limited the utility of a regulated water market in California. There must be interim transfer rules —soon — that ease the constraints to water marketing and provide the practical experience to demonstrate the real value and real problems associated with real transfers. There must be, as the market becomes more open and

competitive, a commitment to protecting existing water rights. Resist the temptation to hamstring the market by adding new taxes or new burdensome requirements to transfers on the possibility that there *may be* impacts. CALFED must take a leadership role in defining a future with transfers and preventing agency barriers from scuttling a major innovation in California water policy. The time is now for CALFED to capture the lead on water transfers and fulfill the decision-making role envisioned for the Program when it was founded nearly five years ago.

Sincerely,

A handwritten signature in cursive script, reading "Judy Kelly". The signature is written in dark ink and is positioned below the word "Sincerely,".

cc: The Honorable Mary Nichols

BACKGROUND ON WESTERN WATER COMPANY

Western Water Company is a publicly held corporation that acquires, develops and markets wholesale water supplies in the western United States, and particularly in California. The Company actively pursues opportunities to purchase and/or develop reliable water supplies that can be used to augment or supplement local supplies. The Company's goal is to provide urban water districts, agricultural users, environmental users and governmental entities with water that (1) replaces reductions in historic water sources, (2) supports planned-for growth, (3) increases reliability of supply, (4) reduces the need for additional large capital investments by cities and districts, (5) adds policy options for responsible stewardship of the environment, and (6) minimizes long-term costs.

Western Water Company is a market leader in helping urban areas, agricultural users, and environmental agencies meet their water needs through facilitating voluntary transfers and exchanges. It is the first private company to complete an agriculture-to-urban transfer accessing publicly owned conveyance facilities. The Company has also provided guidance in the policy, legislative and legal arenas and is a sponsor of SB 506 (Peace), a bill to clarify and implement California's water wheeling statutes. The Company has also provided previous comments on the CALFED Water Transfer Program Plan ("Plan"). Our efforts to engage in all these forums and with a real interest in seeing water transfers work provide us a unique and informed vantage point.

It is with this real-world background that Western Water Company has reviewed the Plan included as part of the revised CALFED Programmatic Environmental Impact Report/Statement (EIR/S) released in June 1999. Western Water Company applauds the CALFED effort of bringing water marketing and transfer issues into sharper focus and identifying the public policy benefits of implementing such a program. We recognize the difficulty of achieving agreements on many of the difficult issues which have been highlighted in the CALFED Transfer document and, by these comments, hope that the Company can add enough experience to help guide CALFED toward implementing this key element.